IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTEENTH DAY OF JANUARY
TWO THOUSAND AND SIX

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION No. 1047 of 2006

Between:

Sir Sahabji Maharaj Charitable Trust,

Rep.by Authorised Signatory Dr.V.V.G.Sastry

..... PETITIONER

AND

The Municipal Commissioner,

Municipal Corportion of Kakinada,

East Godavari District and 2 others

.....RESPONDENTS

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ORDER:

Seeking a Mandamus, declaring the action of the respondents in laying the road through the petitioner's land in T.S.No.2, situated at Kakinada Town, East Godavari District without paying any compensation or transferring an equal area of land to the Petitioner's Trust, as illegal and arbitrary, the writ petition is filed.

Learned counsel for the petitioner submits that the petitioner-Trust is the absolute owner and possessor of the premises mentioned in the writ petition and has been paying taxes to the respondent Corporation. In view of the traffic congestion and to have free flow of traffic, the Kakinada Municipal Corporation has decided to widen the roads, for which they have identified the property of the petitioner-Trust and proposed to demolish the same highhandedly without following the due procedure prescribed in law.

The only grievance of the petitioner is that the respondents without issuing any notices, without paying any compensation for his structures or the lands and without following due process of law, are threatening to demolish the existing structures of the petitioner-trust for the purpose of road-widening.

The learned counsel for the petitioner further submits that the action of respondents without following the due procedure prescribed under law and without paying any compensation either by way of private negotiations or by way of initiating proceedings under the Land Acquisition Act is utter violation of the principles of natural justice as well Sections 146 and 147 of the Municipal Corporation Act, 1955 (for short 'the Act').

This Court disposed of number of writ petitions directing the respondents not to demolish the houses of the private citizens and private properties without following due process of law.

Having regard to the facts and circumstances of the case,
the respondents are directed not to demolish the structures or take away any portion of the properties of the petitioner-trust without following due process of law under Sections 146 and 147 of the Act or private negotiations or initiating the proceedings under the Land Acquisition Act, 1894.

With the above observations, the Writ Petition is disposed of. No order as to costs.

V.ESWARAIAH,J

Dated: 17.01.2006

Dsr

Note:

Issue CC tomorrow

B/o

Dsr